

ORDINANCE NO. 2015-15

AN ORDINANCE ADOPTING CURFEW HOURS FOR MINORS IN THE CITY OF CLEAR LAKE SHORES AND MAKING IT A VIOLATION FOR (1) A MINOR TO REMAIN IN ANY PUBLIC PLACE OR ON THE PREMISES OF ANY ESTABLISHMENT WITHIN THE CITY DURING CURFEW HOURS; (2) A PARENT OR GUARDIAN OF A MINOR TO KNOWINGLY PERMIT, OR BY INSUFFICIENT CONTROL, ALLOW A MINOR TO REMAIN IN ANY PUBLIC PLACE OR ON THE PREMISES OF ANY ESTABLISHMENT WITHIN THE CITY DURING CURFEW HOURS, OR (3) AN OWNER, OPERATOR, OR ANY EMPLOYEE OF AN ESTABLISHMENT TO KNOWINGLY ALLOW A MINOR TO REMAIN UPON THE PREMISES OF THE ESTABLISHMENT DURING CURFEW HOURS; PROVIDING FOR DEFENSES TO THE VIOLATION; PROVIDING FOR AN ENFORCEMENT PROVISION: PROVIDING FOR A PENALTY TO BE FINED FOR BACK OFFENSES AGAINST THE ORDINANCE OF NOT MORE THAN FIVE HUNDRED DOLLARS (\$500.00) FOR BACK DAY OR PART OF A DAY THE VIOLATION EXISTS; CONTAINING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION BY CAPTION ONLY AND AN EFFECTIVE DATE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND DECLARING AN EMERGENCY.

Section 1--Definitions:

Definitions in this section:

“Curfew hours” means:

1. 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and
2. 12:01 a.m. (until 6:00 a.m.) on any Saturday and Sunday.
3. 9:00 a.m. to 2:00 p.m. Monday thru Friday or on such workday the Public/Private Schools are in session)

“Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. This term includes but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

“Establishment” means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

“Guardian” means:

1. a person who, under court order, is the guardian of the person of a minor: or
2. a public or private agency with whom a minor has been placed by a court.

“Minor” means any person less than 17 years of age.

“Operator” means any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

“Parent” means a person who is:

1. a natural parent, adoptive parent, or stepparent of another person; or
2. at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

“Public Place” means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings transport facilities, and shops.

“Remain” means to:

1. Linger or stay; or
2. Fail to leave premises when requested to do so by a Police Officer or the Owner, Operator, or other person in control of the premises.

“Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 2--Offenses:

1. A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.
2. A parent or guardian of minor commits an offense if he knowingly permits, or by insufficient control, allows the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
3. The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

Section 3—Defenses:

It is a defense to prosecution under Section 2 that the minor was; accompanied by the minor's parent or guardian;

1. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
2. In a motor vehicle involved in interstate travel;
3. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

4. Involved in an emergency;
5. On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence
6. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by a civic organization, or another similar entity that takes responsibility for the minor; or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by a civic organization, or another similar entity that takes responsibility for the minor;
7. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, or
8. Married or had been married or had disabilities of minority removed in accordance with chapter 31 of the Texas Family Code.

It is a defense to prosecution under Section 2 that the owner, operator, or employee of an establishment promptly notified the Police Department a minor was present on the premises of the establishment during curfew hours and refused to leave.

Section 4—Enforcement:

Before taking any enforcement action under this section, a Police Officer shall ask the apparent offender's age and reason for being in the public place. The Officer shall not issue a citation or make an arrest under this section unless the Officer reasonably believes that an offense has occurred and that based on any response and other circumstances, no defense in Section 3 is present.

Section 5—Penalties:

1. A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.00.
2. When required by Section 51.08 of the Texas Family Code as amended, the Municipal Court shall waive original jurisdiction over a minor who violates subsection (2)(1) of this section and shall refer the minor to Juvenile Court.

Section 6—Severability:

Should any part of this Ordinance be held invalid by a court of competent jurisdiction, the remaining parts shall be severable and shall continue to be in full force and effect.

Section 7—Emergency:

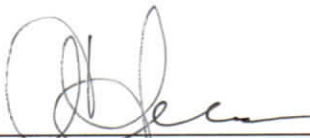
This ordinance is hereby declared to be a measure to meet a public emergency affecting life, health and property in that an emergency exists relating to activity of youths in the City.

Section 8—Publication:

Publication of this Ordinance in the official Newspaper shall be by caption only in accordance with Texas Law. This Ordinance shall be and become effective from and after its adoption and publication as required by Law.

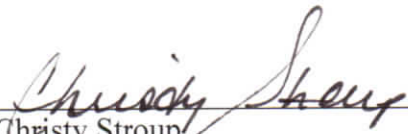
Passed and Approved on this 20th day of October 2015.





Al Burns
Mayor Pro-Tem

ATTEST:



Christy Stroup
City Secretary